



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,806	05/25/2006	David Jay Duffield	PU030224	8853

7590 01/11/2012  
Joseph S Tripoli  
Thomson Licensing Inc  
Two Independence Way  
Suite 200  
Princeton, NJ 08540

EXAMINER
----------

CHOKSHI, PINKAL R

ART UNIT	PAPER NUMBER
----------	--------------

2425

MAIL DATE	DELIVERY MODE
-----------	---------------

01/11/2012

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,806	<b>Applicant(s)</b> DUFFIELD, DAVID JAY	
	<b>Examiner</b> PINKAL R. CHOKSHI	<b>Art Unit</b> 2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) ☒ Claim(s) 7,8 and 10-13 is/are pending in the application.
- 5a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 7,8 and 10-13 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 28 November 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>09/20/11; 09/21/11</u> .                                      | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 11/28/2011 have been fully considered but they are not persuasive. Regarding claim 8, Applicant alleges that Graunke does not disclose generating a billing record data in the receiver in response to the receipt of the authorization key. Examiner respectfully disagrees. In response to applicant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, combination of Peterka and Graunke teaches this limitation, where Peterka discloses (§0047) that the client device stores a record of the impulse PPV and transmits the billing record to the service provider at a later time and Graunke discloses (§0013, §0018, §0028) that the keys (encryption/secret/decryption keys) are delivered to the STB device as represented in Fig. 3 (elements 51, 63); the keys are provided before the content is received, the content can be encrypted at any time before or during broadcast, and the billing and audit information can be provided before any of the other steps. In other words, billing information is provided after receiving the keys step (step 51) and before decrypting

content step (steps 57-61) as represented in Fig. 3. Therefore, the combination of Peterka, Candelore and Graunke renders obviousness of the claim.

Furthermore, Applicant asserts that Stewart does not teach that the access device generates a billing record data in response to the receipt of authorization key and further alleges that the billing code generated by the billing control system in Stewart is in response to the user request to view the presentation. Examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The claim was rejected using the combination of Peterka, Candelore, Stewart, where Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time. However, Peterka does not explicitly teach that the billing record data is generated in response to the receipt of authorization key. Stewart discloses (§0023) that the billing control system at the service provider generates billing code when a user device receives an authorization code as represented in Fig. 4 (elements 406-410). Even though the billing control system is located at the service provider end in Stewart, the general teaching of generating billing record data when a user device receives an authorization code is disclosed in Stewart. Therefore, it would have been obvious because a person of ordinary skills in the art has only a finite number of predictable solutions within his or her technical grasp. Generating billing information after the

Art Unit: 2425

authorization code has been received at the receiver is widely known and also taught by Stewart et al. One skilled in the art would have selected a receiver to generate a billing information after the authorization code is received is likely a product of ordinary skill and common sense, not of innovation. It would have been an obvious matter of design choice to use receiver, instead billing system, to generate billing information, since applicant has not disclosed that using receiver to generate billing information solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the billing system of Stewart.

With regard to the dependent claims, the respective rejections are maintained as Applicant has only argued that the combination of Peterka, Candelore, and Graunke/Stewart does not cure the deficiencies of claim 8, nevertheless it is the Examiner's contention that the combination of these references does not contain any deficiencies. See the rejection below.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 7, 8, and 10-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over US PG Pub 2002/0170053 to Peterka et al (hereafter referenced as Peterka) in view of US Patent 6,697,489 to Candelore et al (hereafter referenced as

Candelore) and US PG Pub 2003/0005285 to Graunke (hereafter referenced as Graunke).

Regarding **claim 7**, “an access device” reads on the client computer that receives the free preview of a program before deciding to order the program (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to “comprising: a tuning and a communications unit for transmitting an impulse purchase message” Peterka discloses (§0047, §0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512). Peterka further discloses (§0036) that the user computer includes a communication system for transmitting/receiving data to/from the service provider as represented in Fig. 2 (element 206).

As to “receiving an authorization key transmitted in response to the transmission of the impulse purchase message and associated with the impulse purchase program” Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to “a controller and decoder unit responsive to the authorization key that formats a digital program into a video display” Peterka discloses (§0090) that the client computer is provided with the key that is used to decrypt the encrypted programming content transmitted to client as represented in Fig. 6 (element 616).

As to “a billing generator within said access device which generates a billing record data, wherein the access device transmits the billing record data to the same location as the impulse purchase message” Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

Peterka meets all the limitations of the claim except “communicating to a service provider using an out of band frequency which is different than content providing frequencies.” However, Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721). As to “a controller and decoder formats a digital program into a video display” Candelore discloses (col.4, lines 28-30) that the display device displays the processing digital video signals. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka’s system by using out-of-band frequency to communicate between STB and head-end as taught by Candelore in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the claim except “a billing generator within said access device generates a billing record data in response to the receipt of the authorization key and transmits the billing record data to the provider.” However, Graunke discloses (§0028) that the STB receives the decryption key and decrypts the content, where the billing

information data is collected by the STB and provided to the server before decrypting content as represented in Fig. 3 (elements 51, 63). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka and Candelore's systems by generating billing data in response to the receipt of authorization key as taught by Graunke in order to precisely charge the authorized user by preventing unauthorized reproduction and distribution of programming content (§0004).

Regarding **claim 8**, "a method of providing a secure means for purchasing an impulse purchase program" reads on the method using encryption keys to distribute program content (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to "method comprising the steps of: communicating a message to a service provider means that indicates an impulse purchase selection" Peterka discloses (§0047, §0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to "receiving, at a receiver, authorization information transmitted in response to the communicated message, and specific to the impulse purchase program" Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server in response to the purchase request received from client



computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to “receiving, at a receiver, the impulse purchase program” Peterka discloses (§0090, §0132) that the requested program content is distributed to the client computer as represented in Fig. 5 (element 520) and Fig. 16B.

As to “processing the impulse purchase program in response to the authorization information” Peterka discloses (§0090) that the user is provided with the key that is used to decrypt the encrypted programming content transmitted to client computer as represented in Fig. 6 (element 616).

As to “generating a billing record data in the receiver and transmitting the billing record data from the receiver to the service provider” Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

Peterka meets all the limitations of the claim except “using an out of band frequency which is different than content providing frequency.” However, Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka’s system by using out-of-band frequency to communicate between STB and head-end as taught by Candelore in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the claim except “generating a billing record data in the receiver in response to the receipt of the authorization key and transmitting the billing record data to the service provider.” However, Graunke discloses (§0028) that the STB receives the decryption key and decrypts the content, where the billing information data is collected by the STB and provided to the server before decrypting content as represented in Fig. 3 (elements 51, 63). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka and Candelore’s systems by generating billing data in response to the receipt of authorization key as taught by Graunke in order to precisely charge the authorized user by preventing unauthorized reproduction and distribution of programming content (§0004).

Regarding **claim 10**, “the method wherein the receiving step comprises receiving the authorization via an out of band frequency” combination of Peterka and Candelore teaches this limitation, where Candelore discloses (col.5, lines 40-45; col.8, lines 8-65) that the service provider transmits encrypted service key to the receiving device using out-of-band channel as represented in Fig. 8 (element 720). In addition, same motivation is used as rejection to claim 8.

Regarding **claim 11**, “the method wherein the communicating step comprises communicating the message via a two way communications interface”

Peterka discloses (§0058) that the consumer-server connection is typically a 2-way connection as represented in Fig. 1 (element 100) and Fig. 2 (element 206).

Regarding **claim 12**, “the method wherein the billing record is transmitted to the service provider via the two way communications interface” Peterka discloses (§0058) that the consumer-server communication is a 2-way connection as represented in Fig. 1.

Regarding **claim 13**, “a method of providing a secure means for purchasing an impulse purchase program” reads on the method using encryption keys to distribute program content (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to “method comprising the steps of: selecting the desired impulse purchase program” Peterka discloses (§0047, §0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to “communicating the desired impulse purchase program selection to a service provider” Peterka discloses (§0047, §0090) that the client contacts the server to request the programming content.

As to “responding to the communicated impulse purchase program selection by transmitting an authorization code to the access device uniquely

associated with the desired impulse purchase program” Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to “transmitting to the access device an impulse purchase program having an entitlement code” Peterka discloses (§0123) that the program content sent to the client computer includes EMM and ECM.

As to “generating a billing record data in the access device and transmitting the billing record data from the access device to the service provider” Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

As to “storing the authorization code associated with the desired impulse purchase program into a security module in the access device” Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server to a client computer in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5. However, Peterka does not explicitly teach that the authorization code is stored into a security module in the access device. However, Candelore discloses (col.8, line 66-col.9, line 6) that the decoder receives the service key for each requested session is stored in the memory of the decoder as represented in Fig. 8 (element 735).

As to “using an out of band frequency which is different than content providing frequency” Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721).

As to “an entitlement code associated with authorization code stored in the security module and decoding the entitlement code” Candelore discloses (col.3, lines 49-61) that the program data received at the device includes EMM and ECM. Candelore further discloses (col.4, lines 35-56; col.5, lines 30-34) that the device uses the stored key (authorization code) to match it with the entitlements processed from the received content stream.

As to “comparing the entitlement code to the code stored in the security module to permit viewing of the impulse purchase program” Candelore discloses (col.4, lines 50-56) that when the scrambled program content is received in the device, the access requirement (entitlement code) of the program is compared to the entitlements stored in the device. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka’s system by using out-of-band frequency to communicate between STB and head-end and compare the stored key with EMM of the stream as taught by Candelore in order to separate two different kinds of data from the stream and also to allow the viewer to view the correct requested IPPV programs (col.2, lines 54-56).

Combination of Peterka and Candelore meets all the limitations of the claim except “generating a billing record data in the access device in response to the receipt of the authorization key and transmitting the billing record data to the service provider.” However, Graunke discloses (§0028) that the STB receives the decryption key and decrypts the content, where the billing information data is collected by the STB and provided to the server before decrypting content as represented in Fig. 3 (elements 51, 63). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka and Candelore’s systems by generating billing data in response to the receipt of authorization key as taught by Graunke in order to precisely charge the authorized user by preventing unauthorized reproduction and distribution of programming content (§0004).

4. **Claims 7, 8, and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterka in view of Candelore, and further in view of US PG Pub 2003/0140348 to Stewart (hereafter referenced as Stewart).

Regarding **claim 7**, “an access device” reads on the client computer that receives the free preview of a program before deciding to order the program (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to “comprising: a tuning and a communications unit for transmitting an impulse purchase message” Peterka discloses (§0047, §0090) that the server system provides a free preview of the initial portion of the program, where after

watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512). Peterka further discloses (§0036) that the user computer includes a communication system for transmitting/receiving data to/from the service provider as represented in Fig. 2 (element 206).

As to “receiving an authorization key transmitted in response to the transmission of the impulse purchase message and associated with the impulse purchase program” Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to “a controller and decoder unit responsive to the authorization key that formats a digital program into a video display” Peterka discloses (§0090) that the client computer is provided with the key that is used to decrypt the encrypted programming content transmitted to client as represented in Fig. 6 (element 616).

As to “wherein the access device transmits the billing record data to the same location as the impulse purchase message” Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

Peterka meets all the limitations of the claim except “communicating to a service provider using an out of band frequency which is different than content providing frequencies.” However, Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the

content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721). As to "a controller and decoder formats a digital program into a video display" Candelore discloses (col.4, lines 28-30) that the display device displays the processing digital video signals. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka's system by using out-of-band frequency to communicate between STB and head-end as taught by Candelore in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the claim except "a billing generator within said access device which generates a billing record data in response to the receipt of the authorization key." However, Stewart discloses (¶0023, ¶0039-¶0041) that based on the request received from the user to view the programming, service provider generates authorization code and transmits it to the subscriber, where billing control system generates billing code when a user receives an authorization code as represented in Fig. 4 (elements 406-410). However, it would have been obvious because a person of ordinary skills in the art has only a finite number of predictable solutions within his or her technical grasp. Generating billing information after the authorization code has been received at the receiver is widely known and also taught by Stewart et al. One skilled in the art would have selected a receiver to generate a billing information after the authorization code is received is likely a product of ordinary skill and common sense, not of innovation. It would have been an



obvious matter of design choice to use receiver, instead billing system, to generate billing information, since applicant has not disclosed that using receiver to generate billing information solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the billing system of Stewart.

Regarding **claim 8**, “a method of providing a secure means for purchasing an impulse purchase program” reads on the method using encryption keys to distribute program content (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to “method comprising the steps of: communicating a message to a service provider means that indicates an impulse purchase selection” Peterka discloses (¶0047, ¶0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to “receiving, at a receiver, authorization information transmitted in response to the communicated message, and specific to the impulse purchase program” Peterka discloses (¶0086, ¶0090, ¶0095-¶0101, claim 10) that the key is provided by a server in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to “receiving, at a receiver, the impulse purchase program” Peterka discloses (§0090, §0132) that the requested program content is distributed to the client computer as represented in Fig. 5 (element 520) and Fig. 16B.

As to “processing the impulse purchase program in response to the authorization information” Peterka discloses (§0090) that the user is provided with the key that is used to decrypt the encrypted programming content transmitted to client computer as represented in Fig. 6 (element 616).

As to “transmitting the billing record data from the receiver to the service provider” Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

Peterka meets all the limitations of the claim except “using an out of band frequency which is different than content providing frequency.” However, Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka’s system by using out-of-band frequency to communicate between STB and head-end as taught by Candelore in order to separate two different kinds of data from the stream.

Combination of Peterka and Candelore meets all the limitations of the claim except “generating a billing record data in the receiver in response to the

receipt of the authorization key.” However, Stewart discloses (§§0023, §§0039-§§0041) that based on the request received from the user to view the programming, service provider generates authorization code and transmits it to the subscriber, where billing control system generates billing code when a user receives an authorization code as represented in Fig. 4 (elements 406-410). However, it would have been obvious because a person of ordinary skills in the art has only a finite number of predictable solutions within his or her technical grasp. Generating billing information after the authorization code has been received at the receiver is widely known and also taught by Stewart et al. One skilled in the art would have selected a receiver to generate a billing information after the authorization code is received is likely a product of ordinary skill and common sense, not of innovation. It would have been an obvious matter of design choice to use receiver, instead billing system, to generate billing information, since applicant has not disclosed that using receiver to generate billing information solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the billing system of Stewart.

Regarding **claim 13**, “a method of providing a secure means for purchasing an impulse purchase program” reads on the method using encryption keys to distribute program content (abstract) disclosed by Peterka and represented in Fig. 1 (element 112).

As to “method comprising the steps of: selecting the desired impulse purchase program” Peterka discloses (§0047, §0090) that the server system provides a free preview of the initial portion of the program, where after watching the preview, user decides to purchase the program content (IPPV) as represented in Fig. 5 (element 512).

As to “communicating the desired impulse purchase program selection to a service provider” Peterka discloses (§0047, §0090) that the client contacts the server to request the programming content.

As to “responding to the communicated impulse purchase program selection by transmitting an authorization code to the access device uniquely associated with the desired impulse purchase program” Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5.

As to “transmitting to the access device an impulse purchase program having an entitlement code” Peterka discloses (§0123) that the program content sent to the client computer includes EMM and ECM.

As to “transmitting the billing record data from the access device to the service provider” Peterka discloses (§0047) that the client computer stores a record of the impulse PPV and transmits the billing record to the service provider at a later time.

As to “storing the authorization code associated with the desired impulse purchase program into a security module in the access device” Peterka discloses (§0086, §0090, §0095-§0101, claim 10) that the key is provided by a server to a client computer in response to the purchase request received from client computer, where the key is associated with the service (IPPV) as represented in Fig. 5. However, Peterka does not explicitly teach that the authorization code is stored into a security module in the access device. However, Candelore discloses (col.8, line 66-col.9, line 6) that the decoder receives the service key for each requested session is stored in the memory of the decoder as represented in Fig. 8 (element 735).

As to “using an out of band frequency which is different than content providing frequency” Candelore discloses (col.8, lines 37-48) that the set top unit uses out-of-band frequency transmitter, which is different than the content received, to deliver request to head-end for IPPV program as represented in Fig. 8 (element 721).

As to “an entitlement code associated with authorization code stored in the security module and decoding the entitlement code” Candelore discloses (col.3, lines 49-61) that the program data received at the device includes EMM and ECM. Candelore further discloses (col.4, lines 35-56; col.5, lines 30-34) that the device uses the stored key (authorization code) to match it with the entitlements processed from the received content stream.

As to “comparing the entitlement code to the code stored in the security module to permit viewing of the impulse purchase program” Candelore discloses (col.4, lines 50-56) that when the scrambled program content is received in the device, the access requirement (entitlement code) of the program is compared to the entitlements stored in the device. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Peterka’s system by using out-of-band frequency to communicate between STB and head-end and compare the stored key with EMM of the stream as taught by Candelore in order to separate two different kinds of data from the stream and also to allow the viewer to view the correct requested IPPV programs (col.2, lines 54-56).

Combination of Peterka and Candelore meets all the limitations of the claim except “generating a billing record data in the access device in response to the receipt of the authorization key.” However, Stewart discloses (¶0023, ¶0039-¶0041) that based on the request received from the user to view the programming, service provider generates authorization code and transmits it to the subscriber, where billing control system generates billing code when a user receives an authorization code as represented in Fig. 4 (elements 406-410). However, it would have been obvious because a person of ordinary skills in the art has only a finite number of predictable solutions within his or her technical grasp. Generating billing information after the authorization code has been received at the receiver is widely known and also taught by Stewart et al. One skilled in the art would have selected a receiver to generate a billing information

after the authorization code is received is likely a product of ordinary skill and common sense, not of innovation. It would have been an obvious matter of design choice to use receiver, instead billing system, to generate billing information, since applicant has not disclosed that using receiver to generate billing information solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the billing system of Stewart.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL R. CHOKSHI whose telephone number is (571)270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm.

Art Unit: 2425

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PINKAL R CHOKSHI/  
Examiner, Art Unit 2425

/Brian T Pendleton/  
Supervisory Patent Examiner, Art Unit 2425